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Total Number of Pages in This Submission: 4

Application Number	10/656,803
Filing Date	September 4, 2003
First Named Inventor	GREENE, WARNER C.
Group Art Unit	1648
Examiner Name	Boesen, Agnieszka
Attorney Docket Number	UCAL-283

ENCLOSURES (check all that apply)

- ☐ Fee Transmittal Form
  - ☐ Fee Attached
- ☐ Amendment / Reply
  - ☐ After Final
  - ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Documents
- ☐ Response to Missing Parts/ Incomplete Application
  - ☐ Response to Missing Parts under 37 CFR 1.52 or 1.53
- ☐ Assignment Papers *(for an Application)*
- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a Provisional Application
- ☐ Power of Attorney, Revocation Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s
- ☐ After Allowance Communication to Group
- ☐ Appeal Communication to Board of Appeals and Interferences
- ☐ Appeal Communication to Group *(Appeal Notice, Brief, Reply Brief)*
- ☐ Proprietary Information
- ☒ **Response to Restriction Requirement**
- ☒ Other Enclosure(s) *(please identify below):*

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Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Signing Attorney/Agent (Reg. No.)	CAROL L. FRANCIS, 36,513 BOZICEVIC, FIELD & FRANCIS, LLP
Signature	
Date	April 27, 2006

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RESPONSE TO RESTRICTION REQUIREMENT Address to: Mail Stop Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Docket No.	UCAL-283
	Application No.	10/656,803
	Confirmation No.	7086
	Filing Date	September 4, 2003
	Examiner	Boesen, Agnieszka
	Group Art Unit	1648

Sir:

This communication is submitted in response to the Restriction Requirement dated March 30, 2006. The Examiner therein required election of one of the following groups of claims:

I. Claims 1-15, drawn to a method for detecting fusion of an enveloped retrovirus to a target cell, the method comprising contacting a target cell with an enveloped retroviral virion containing a chimeric viral protein comprising a reporter polypeptide;

II. Claim 16-19, drawn to a method for identifying an agent that modulates fusion of HIV virion to a target cell, the method comprising contacting a target cell with a candidate agent and with an HIV virion containing a chimeric viral protein;

III. Claim 20-22, drawn to a method for identifying a viral envelope protein that facilitates viral fusion to a target cell, the method comprising contacting a target cell with a pseudotyped HIV virion;

IV. Claim 23, drawn to a method for identifying a viral envelope protein, wherein the method further comprises contacting the target cell with a candidate agent that facilitates viral fusion to a target cell;

V. Claim 24 and 25, drawn to an isolated chimeric viral protein;

VI. Claim 29, drawn to an isolated enveloped virion;

VII. Claim 26, 27 and 28, drawn to an isolated polynucleotide sequence; and

VIII. Claim 30 and 31, drawn to a kit for detecting fusion of an enveloped virion to a target cell.

Applicants hereby elect to prosecute the claims of Group I, claims 1-15 with traverse.

As stated in the MPEP §803, if search and examination of an entire application can be made without serious burden, the examiner must examine) the entire application on the merits, even though the entire application includes claims to independent or distinct inventions. MPEP §803 also states that

> a serious burden on the examiner may be prima facie shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02.

In the present application, the method claims of Groups I-IV can readily be examined together with an undue burden. All of these claims in Groups I-IV requires use of a retroviral virion having a chimeric viral protein, which has a reporter polypeptide operably joined to a viral accessory protein. An exemplary chimeric viral protein is the BlaM-VpR fusion protein. A search to identify relevant art to the claims of Group I with respect to the use of a chimeric viral protein as recited in the claims would also identify art relevant to the claims of Groups II - IV.

Likewise, a search to identify art for a chimeric viral protein of Group V would also identify art relevant to an isolated enveloped virion having a chimeric viral protein of Group VI. Furthermore, the kit claims of Group VIII should be examined with Groups containing claims directed to the compositions present in the kits (e.g., the chimeric viral protein claims and the claims directed to a polynucleotide encoding the chimeric viral protein).

In the instant case, the Office asserts that

> the methods of Groups I, II, II [sic] and IV have different methods steps and use different reagents. A search for a method of identifying a viral envelope protein that facilitates viral fusion to a target cell of Group III is not co-extensive with a search for a method further comprising contacting the target cell with a candidate agent that facilitates viral fusion to a target cell of Group IV.

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The Office goes on to state that because the claims do not overlap in scope, that restriction is proper.

Applicants respectfully submit that the above basis for the restriction requirement is improper. Simply because claims are not of the same scope is not an appropriate basis for requiring restriction of the claims. Further, although the Office states that searches for Groups I, II, III, IV, and V would not be co-extensive, all of these Groups are assigned to the same class and subclass -- class 435, subclass 5.

Accordingly, the Applicants traverse the restriction requirement, and request its withdrawal.

The Applicants expressly reserve the right under 35 USC §121 to file a divisional application directed to the non-elected subject matter or any subject matter disclosed in this application during the pendency of this application.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number UCAL-283.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: April 27, 2006

By: _____
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